Rodney M. Toothacre, In Pro Se
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FILED
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CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY KNV DEPUTY

THE UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

RODNEY M. TOOTHACRE Plaintiff, v. UNITED STATES OF AMERICA and INTERNAL REVENUE SERVICE, Defendant.	Case No: 07-CV-2289-DMS-WMC **DECLARATION OF RODNEY M. TOOTHACRE IN SUPPORT OF OPPOSITION TO MOTION TO DISMISS** **Hearing Date:** **May 16, 2008** **Time:** **1:30 pm** **Courtroom:** **10**

I, RODNEY M. TOOTHACRE, declare:

1. I am a the plaintiff in the above entitled matter. I have personal knowledge of the information contained in this declaration and, if required, could and would competently testify regarding the facts contained herein.

2. Attached hereto as Exhibit A is a true and correct copy of a letter dated November 7, 2007, from Richard Sheinberg, Advisory Territory Manager, CA-West Territory, with the IRS, along with the hand addressed envelope in which it was delivered.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 1st day of May, 2008, at San Diego, California.

Rodney M Toothacre

RODNEY M. TOOTHACRE, In Pro Se

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

SMALL BUSINESS / SELF-EMPLOYED DIVISION

Date: NOV 7 2007

Rod M. Toothacre
13742 Indian Peak Trail
Poway, CA 92064

Dear Mr. Toothacre:

This is in response to your Administrative Claim for Damages under 26 USC sects. 7432, 7433, Civil Damages for Failure to Release Lien, dated May 16, 2006.

Your claim has been reviewed and is denied for the following reasons:

> IRC 7432 states 1) actual, direct economic damages sustained by the plaintiff, 2) the costs of the action. Claims must contain specific and detailed descriptions of the amounts of the damages. Your claim did not contain this information.
>
> IRC 6325(2) states that if the collection statute after assessment has not expired, the Secretary may revoke a lien release and reinstate the lien. The collection statute had been extended by the filing of the bankruptcy and the offer in compromise. A discharge in bankruptcy does not automatically abate any tax liability due, especially if there is a Notice of Federal Tax Lien recorded. The remaining Notices will not be released until the accounts have been paid in full or become unenforceable due to statute expiration.

You are not entitled to request any additional administrative appeals of this decision. However, if you wish to take further action, you may file a civil action for damages under Treasury Regulation 301.7432-1 in Federal District Court. You have two years from the date of the action you believe caused your damages to file your case with the court.

If you have any questions or need more information, please contact Ms. Buhrow (ID#33-04602) at the address or the telephone number listed below:

EXHIBIT A

Internal Revenue Service
24000 Avila Road
Mail Stop 5905
Laguna Niguel, CA 92677

Phone#: 949/389-4082
Fax#: 949/389-5004

Sincerely,

Richard Sheinberg
Advisory Territory Manager
CA-West Territory

Internal Revenue Service
Mall Stop ~~5910~~ 5905
24000 Avila Rd.
Laguna Niguel, CA 92677

Official Business
Penalty for Private Use, $300

US OFFICIAL MAIL
$300 Penalty
For Private Use

049J00743162
$00.41⁰
11/08/2007
Mailed From 92677
US POSTAGE

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92064+3056